

**U.S. CONSTITUTIONAL HISTORY FROM THE FOUNDING TO
RECONSTRUCTION**

FALL 2019

PROFESSOR MICHAEL ALLAN WOLF

LAW 6930, CLASS 23359 3 CREDIT HOURS

SYLLABUS AND CLASS PROCEDURES

OUR CLASS WILL MEET ON TUESDAYS AND THURSDAYS FROM 3:00 TO 4:25 PM IN HOLLAND 359.

My office is Holland Hall Room 307, my email address is wolfm@law.ufl.edu, and my phone number is 352-273-0934. I am typically in my office Monday through Friday. If my door is open, you are welcome, as I do not restrict my contact with students to a few hours per week. If you would like to set up an appointment, please send me an email message.

THERE ARE FOUR REQUIRED TEXTS FOR THIS CLASS:

MICHAEL J. KLARMAN, *THE FRAMERS' COUP: THE MAKING OF THE UNITED STATES CONSTITUTION* (2016)

SEAN WILENTZ, *NO PROPERTY IN MAN: SLAVERY AND ANTISLAVERY AT THE NATION'S FOUNDING* (2018)

WILLIAM E. NELSON, *MARBURY V. MADISON: THE ORIGINS AND LEGACY OF JUDICIAL REVIEW* (2D ED. 2018)

MARK R. KILLENBECK, *M'CUULOCK V. MARYLAND: SECURING A NATION* (2006)

ADDITIONAL ASSIGNMENTS WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE.

COURSE DESCRIPTION (FROM WEB PAGE): *This course will explore the origins and early interpretations of the U.S. Constitution. Readings will focus on English constitutionalism, early state constitutions, the Articles of Confederation, the framing and ratification processes, and Supreme Court opinions from the beginning of the Court to Reconstruction.*

COURSE GOALS AND/OR OBJECTIVES: *By the end of this course, it is my hope that students will:*

- *be familiar with the interplay between social, political, economic, and ideological developments and the work of the Supreme Court,*
- *appreciate the origins and unique nature of American constitutionalism,*
- *understand how modern understandings (popular, political, and legal) of the origins, ratification, and meaning of the Constitution contrast with the historical reality,*
- *engage in research in primary sources and present those findings to the class,*
- *appreciate that the current body of constitutional law is a product of decades of complex and profound developments within and outside the Court,*
- *analyze and discuss the course of American constitutional history in class and in writing.*

COURSE POLICIES:

ATTENDANCE POLICY: *The law school's policy on attendance can be found at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#3>. Each student is permitted five class absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam.*

INTERNET USE IN THE CLASSROOM: *I expect that during each class all students will be prepared to conduct research on the internet (usually Lexis or Westlaw) using a laptop, tablet, or other means. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.*

ACADEMIC HONESTY: *Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.*

GRADING POLICIES:

I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g., from B+ to A-). I reserve the right to lower the grades by a one-half grade bump of

students who disrupt the learning environment.

THERE WILL BE ONE PAPER, ONE FINAL EXAMINATION, AND AT LEAST TWO ORAL PRESENTATIONS: *The paper (8-12 pages, 30% of final grade) will require the student to do outside research using primary and secondary sources, and the final examination (50%) will be an essay test. Students will also be required to make at least two oral presentations during the semester (20% of final grade).*

GRADING SCALE: *The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:*

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67

E (Failure)	0.0
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The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

WORKLOAD/CLASS PREPARATION:

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

ACCOMMODATIONS:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

ONLINE COURSE EVALUATION PROCESS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

CLASS READINGS:

You will find below the book chapters and cases that I anticipate we will cover during the semester. I will distribute electronically a short excerpt from each case listed. For most classes, I will also distribute one or more historical documents to accompany the assignment. Individual law students will be asked to explain the document or case to the class. In the event we are moving more slowly than anticipated, I will not speed up to

cover all of these readings. Instead, I will make cuts in the assigned readings.

Class 1

The British Constitution: <https://www.bl.uk/magna-carta/articles/britains-unwritten-constitution>

The Declaration of Independence: https://avalon.law.yale.edu/18th_century/declare.asp

Constitution of Pennsylvania (1776): https://avalon.law.yale.edu/18th_century/pa08.asp

The Articles of Confederation: https://avalon.law.yale.edu/18th_century/artconf.asp

Klarman, pages 1-48

Classes 2-3

Klarman, pages 48-125

Classes 4-6

Klarman, pages 126-256

U.S. Constitution: <https://www.archives.gov/founding-docs/constitution-transcript>

Classes 7-9

Klarman, pages 257-304

Wilentz, pages 1-114

Classes 10-12

Klarman, pages 305-545

Wilentz, pages 115-151

Classes 13-14

Klarman, pages 546-631

Bill of Rights: https://avalon.law.yale.edu/18th_century/rights1.asp

Classes 15-17

Nelson, pages 1-77

Chisholm v. Georgia (1793): state parties and federal jurisdiction

Ware v. Hylton (1796): state law and the Treaty of Paris

Hylton v. U.S. (1796): carriage tax

Calder v. Bull (1798): ex post facto laws

Classes 18-19

Nelson, pages 78-118

Marbury v. Madison (1803): mandamus and judicial review

Fletcher v. Peck (1810): Yazoo land fraud

Martin v. Hunter's Lessee (1816): Supreme Court review of state decisions

Trustees of Dartmouth College v. Woodward (1819): Contract Clause and private colleges

Classes 20-22

Killenbach, pages 1-190

McCulloch v. Maryland (1819): constitutionality of the Bank of the United States

Cohens v. Virginia (1821): state decisions and the Supreme Court

Ogden v. Saunders (1827): bankruptcy law and the Contracts Clause

Worcester v. Georgia (1832): state regulation of Native Americans

Barron v. Baltimore (1833): Bill of Rights not applicable to the states

Charles River Bridge v. Warren Bridge (1837): Contracts Clause and competition

Classes 23-24

Wilentz, pages 152-268

Nelson, pages 119-154

United States v. The Amistad (1841): slave revolt on a ship

Prigg v. Pennsylvania (1842): preemption and fugitive slaves

Dred Scott v. Sandford (1857): slavery and the Missouri Compromise

Classes 25-26

Ex parte Vallandigham (1864): appeals from military courts

Ex parte Milligan (1866): civilian trials in military tribunals

Mississippi v. Johnson (1867): challenging Reconstruction

Georgia v. Stanton (1868): challenging Reconstruction (again)

Ex parte McCordle (1869): congressional withdrawal of Supreme Court jurisdiction

Texas v. White (1869): legal effects of secession

FINAL EXAM:

You may choose one day during the exam period during which to take your unlimited-source, open-book final examination.